

112TH CONGRESS
2D SESSION

H. R. 5875

To establish a visa waiver program for the United States Virgin Islands.

IN THE HOUSE OF REPRESENTATIVES

MAY 31, 2012

Mrs. CHRISTENSEN introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To establish a visa waiver program for the United States
Virgin Islands.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Virgin Islands Visa
5 Waiver Act of 2012”.

6 **SEC. 2. VIRGIN ISLANDS VISA WAIVER PROGRAM.**

7 (a) IN GENERAL.—Section 212(l) of the Immigration
8 and Nationality Act (8 U.S.C. 1182(l)) is amended—

9 (1) by amending the subsection heading to read
10 as follows: “GUAM, NORTHERN MARIANA ISLANDS,

1 AND VIRGIN ISLANDS VISA WAIVER PROGRAMS.—”;
2 and

3 (2) by adding at the end the following:

4 “(7) VIRGIN ISLANDS VISA WAIVER PRO-
5 GRAM.—

6 “(A) IN GENERAL.—The requirement of
7 subsection (a)(7)(B)(i) may be waived by the
8 Secretary of Homeland Security, in the case of
9 an alien who is a national of a country de-
10 scribed in subparagraph (B) and who is apply-
11 ing for admission as a nonimmigrant visitor for
12 business or pleasure and solely for entry into
13 and stay in the United States Virgin Islands for
14 a period not to exceed 30 days, if the Secretary
15 of Homeland Security, after consultation with
16 the Secretary of the Interior, the Secretary of
17 State, the Governor of the United States Virgin
18 Islands, determines that such a waiver does not
19 represent a threat to the welfare, safety, or se-
20 curity of the United States or its territories and
21 commonwealths.

22 “(B) COUNTRIES.—A country described in
23 this subparagraph is a country that—

1 “(i) is a member or an associate mem-
2 ber of the Caribbean Community
3 (CARICOM); and

4 “(ii) is listed in the regulations de-
5 scribed in subparagraph (D).

6 “(C) ALIEN WAIVER OF RIGHTS.—An alien
7 may not be provided a waiver under this para-
8 graph unless the alien has waived any right—

9 “(i) to review or appeal under this Act
10 an immigration officer’s determination as
11 to the admissibility of the alien at the port
12 of entry into the United States Virgin Is-
13 lands; or

14 “(ii) to contest, other than on the
15 basis of an application for withholding of
16 removal under section 241(b)(3) of this
17 Act or under the Convention Against Tor-
18 ture, or an application for asylum if per-
19 mitted under section 208, any action for
20 removal of the alien.

21 “(D) REGULATIONS.—All necessary regu-
22 lations to implement this paragraph shall be
23 promulgated by the Secretary of Homeland Se-
24 curity, in consultation with the Secretary of the
25 Interior and the Secretary of State, on or be-

1 fore the 60th day after the date of enactment
2 of the Virgin Islands Visa Waiver Act of 2012.
3 The promulgation of such regulations shall be
4 considered a foreign affairs function for pur-
5 poses of section 553(a) of title 5, United States
6 Code. At a minimum, such regulations should
7 include, but not necessarily be limited to—

8 “(i) a listing of all member or asso-
9 ciate member countries of the Caribbean
10 Community (CARICOM) whose nationals
11 may obtain the waiver provided by this
12 paragraph, except that such regulations
13 shall not provide for a listing of any coun-
14 try if the Secretary of Homeland Security
15 determines that such country’s inclusion
16 on such list would represent a threat to the
17 welfare, safety, or security of the United
18 States or its territories and common-
19 wealths; and

20 “(ii) any bonding requirements for na-
21 tionals of some or all of those countries
22 who may present an increased risk of
23 overstays or other potential problems, if
24 different from such requirements otherwise
25 provided by law for nonimmigrant visitors.

1 “(E) FACTORS.—In determining whether
2 to grant or continue providing the waiver under
3 this paragraph to nationals of any country, the
4 Secretary of Homeland Security, in consultation
5 with the Secretary of the Interior and the Sec-
6 retary of State, shall consider all factors that
7 the Secretary deems relevant, including elec-
8 tronic travel authorizations, procedures for re-
9 porting lost and stolen passports, repatriation
10 of aliens, rates of refusal for nonimmigrant vis-
11 itor visas, overstays, exit systems, and informa-
12 tion exchange.

13 “(F) SUSPENSION.—The Secretary of
14 Homeland Security shall monitor the admission
15 of nonimmigrant visitors to the United States
16 Virgin Islands under this paragraph. If the Sec-
17 retary determines that such admissions have re-
18 sulted in an unacceptable number of visitors
19 from a country remaining unlawfully in the
20 United States Virgin Islands, unlawfully obtain-
21 ing entry to other parts of the United States,
22 or seeking withholding of removal or asylum, or
23 that visitors from a country pose a risk to law
24 enforcement or security interests of the United
25 States Virgin Islands or of the United States

1 (including the interest in the enforcement of the
2 immigration laws of the United States), the
3 Secretary shall suspend the admission of na-
4 tionals of such country under this paragraph.
5 The Secretary of Homeland Security may in the
6 Secretary's discretion suspend the United
7 States Virgin Islands visa waiver program at
8 any time, on a country-by-country basis, for
9 other good cause.

10 “(G) ADDITION OF COUNTRIES.—The Gov-
11 ernor of the United States Virgin Islands may
12 request the Secretary of the Interior and the
13 Secretary of Homeland Security to add a par-
14 ticular country to the list of countries whose
15 nationals may obtain the waiver provided by
16 this paragraph, and the Secretary of Homeland
17 Security may grant such request after consulta-
18 tion with the Secretary of the Interior and the
19 Secretary of State, and may promulgate regula-
20 tions with respect to the inclusion of that coun-
21 try and any special requirements the Secretary
22 of Homeland Security, in the Secretary's sole
23 discretion, may impose prior to allowing nation-
24 als of that country to obtain the waiver pro-
25 vided by this paragraph.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) DOCUMENTATION REQUIREMENTS.—Section
3 212(a)(7)(iii) of the Immigration and Nationality
4 Act (8 U.S.C. 1182(a)(7)(iii)) is amended to read as
5 follows:

6 “(iii) SPECIAL VISA WAIVER PRO-
7 GRAMS.—For a provision authorizing waiv-
8 er of clause (i) in the case of visitors to
9 Guam, the Commonwealth of the Northern
10 Mariana Islands, or the United States Vir-
11 gin Islands, see subsection (l).”.

12 (2) ADMISSION OF NONIMMIGRANTS.—Section
13 214(a)(1) of such Act (8 U.S.C. 1184(a)(1)) is
14 amended by inserting before the final sentence the
15 following: “No alien admitted to the United States
16 Virgin Islands without a visa pursuant to section
17 212(l)(7) may be authorized to enter or stay in the
18 United States other than in United States Virgin Is-
19 lands or to remain in the United States Virgin Is-
20 lands for a period exceeding 30 days from date of
21 admission to the United States Virgin Islands.”.

○